



Water Quality NewsFlash

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Construction General Permit – Second hearing, more issues – The current version of the much revised monitoring requirements for the construction general permit went before the State Water Resources Control Board for a second time on June 17th. A May 5 Board workshop had raised a number of contentious issues (see *NewsFlash* 04-19). In this June 17th hearing, Board staff again strongly defended their permit as complying with the Clean Water Act and going beyond EPA requirements. A CoastKeepers' representative objected on the basis that the modifications do not comply with prior court orders. An industry representative disagreed with the interpretation that visible turbidity generally indicates exceedance of standards. (See http://www.swrcb.ca.gov/stormwtr/docs/9908_response2febcomments.doc *Response to Comments* re: Sect 3.1)

This *Response to Comments* item is very instructive regarding the Board's intention with respect to both visual turbidity and compliance in general:

“Although the discharge of sediment through erosion is a natural process and is reflected in the basin plans of the Regional Boards, that does not mean that the discharge of turbid water associated with erosion due to construction is allowable. In general, turbidity that is visible will indicate that the discharge is well above the levels of allowable discharge. [underlining added]

For example, the USEPA Multisector permit for industrial dischargers sets a benchmark of 100 TSS for sediment. Most of the Regional Board basin plans have effluent limits that are similar to this for sediment. An approximate equivalent to this 100 TSS standard is 50-75 NTU for turbidity. A sample with a reading of 50-75 NTU does not appear turbid, but rather appears cloudy. Therefore, it is reasonable to assume that a sample that is visually turbid is out of compliance with the CGP. This does not necessarily mean that it is automatically in violation of the permit. If the site has a SWPPP that identifies what appear to be an effective combination of erosion and sediment control but the measures did not work adequately, then the discharger would be required to enter into the iterative approach. If a turbid discharge was the result of inadequate or non-existent BMPs, the discharger would be in violation of the CGP. (Also, a violation occurs if there are no or inadequate BMPs, even if there is no discharge.)

This appears to indicate that an exceedance by itself is not a permit violation. The violation only occurs if appropriate BMPs have not been implemented or if the discharger does not carry out the iterative process of reviewing the SWPPP and improving BMPs in response to the exceedance.

Mercury TMDL for San Francisco Bay – SF Board hears issues – (See *NewsFlash* 04-18 for background) During the June 16th hearing, representatives from sewage treatment agencies objected to the TMDL on the basis that the mercury waste load allocations (WLA) assigned to their facilities would prevent growth. Stormwater agencies objected that they could only meet their 50% reduction requirements by implementing treatment which could cost \$100s of millions. Environmental group representatives asked for more coordination with the Air Resource Board in addressing atmospheric deposition of mercury which is a major source. They also proposed that the cost/benefit assessment needs to include the value of an improved fishery if mercury is successfully controlled. Another hearing will be scheduled but may be limited to only changes to the TMDL. <http://www.swrcb.ca.gov/rwqcb2/sfbaymercurytmdl.htm>

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